

UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Ronald H. Sargis
Bankruptcy Judge
Modesto, California

September 7, 2023 at 2:00 p.m.

1. [23-90129-E-11](#) G ARATA & SON INC. CONTINUED MOTION FOR RELIEF
[BJ-1](#) David Johnston FROM AUTOMATIC STAY , AND/OR
MOTION FOR ADEQUATE PROTECTION
5-16-23 [[39](#)]

AMERICAN AGCREDIT, PCA,
AMERICAN AGCREDIT FLCA VS.

Items 1 thru 2

Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

Local Rule 9014-1(f)(1) Motion—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, Chapter 11 Subchapter V Trustee, creditors holding the twenty largest unsecured claims, creditors, parties requesting special notice, and Office of the United States Trustee on May 16, 2023. By the court's calculation, 30 days' notice was provided. 28 days' notice is required.

The Motion for Relief from the Automatic Stay has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). Failure of the respondent and other parties in interest to file written opposition at least fourteen days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (upholding a court ruling based upon a local rule construing a party's failure to file opposition as consent to grant a motion). The defaults of the non-responding parties and other parties in interest are entered.

The Motion for Relief is XXXXXXXXXX

American AgCredit, FLCA (“FLCA”) and American AgCredit, PCA (“PCA”), collectively, “Movants,” seek relief from the automatic stay, or, in the alternative, for adequate protections of their interest.

The court has been presented with a 17-page motion (Dckt. 39), 19-page memorandum of points and authorities (Dckt. 47), 15-pages of declarations (Dckts. 41, 42), and 365-pages worth of exhibits (Dckts. 43, 44, 46). In the Motion, Movant instructs the court to review the hundreds and hundreds pages of exhibits to identify the collateral and the various obligations to which they relate.

The court has begun the task of parsing through the Motion and supporting documents to determine not only whether relief is appropriate, but also what relief Movants believe they are entitled to. Due to the pages and pages and pages of pleadings and exhibits, much work remains to be done.

From the court’s initial review of the Motion, Movants are asserting the following as grounds to terminate the stay because:

1. Improper purpose:
 - i. Movants claim the case was filed as part of an ongoing family dispute. Movants claim there were various disputes between father and son, Mr. George Arata, Sr. (“Mr. Arata”) and Mr. George Arata, Jr. (“Son”). Motion, Dckt. 39 at 4 ¶ 3.
2. Debtor has not paid the fully matured loan to Movant PCA.

Movant has provided a 3.5 page “summary” of the loan transaction between Movant PCA and Debtor. Motion, Dckt. 39 at 5-8. The history of the loan is more than confusing to the court, with numerous parties, assets, and interests described.

It appears to the court that Debtor signed two promissory notes in favor of Movant PCA:

- (1) February 26, 2021 - in the amount of \$150,000, and
- (2) May 9, 2022 - in the amount of \$200,000.

The Motion states that the loans contained Supplemental Loan Agreements that provide “Continuing Guaranties” of non-debtor parties. Additionally, the Motion states the Supplemental Loan Agreement provides that the “collateral” described in the Deed of Trust, Security Agreement, Assignment of Rents and Fixture Filing, secures obligations related to various loans. Motion, Dckt. 39 at 5, 7. It would take considerable amount of time and resources for the court to parse through the hundreds of pages of supporting documents to determine the relationship between the PCA Loan, the aforementioned documents, and these various loans. It is not clear to the court what Movants are trying to establish.

The Motion also states the PCA Deed of Trust secures real and personal property concerning agricultural real property in Brentwood, California. Motion, Dckt. 39 at 6:9-11. Additionally, the Motion states numerous non-debtors guaranteed the debt. *Id.* at 6, . The Motion states Debtor and numerous non-debtors signed security agreements granting interest to Movant PCA in their personal property, as well as

a continuing guarantee. *Id.* at 6, 7. Movant PCA states they filed a UCC with California Secretary of State. *Id.* at 8.

Movants state Debtor's Loan of Movant PCA matured on April 1, 2023. The unpaid indebtedness due totals \$174,800.87, of which \$155,019 is principal, the remainder interest and late charges. *Id.* at 8:5-7.

3. Non-Debtor Arata Farm Management, Inc. ("AFM") has failed to pay their fully matured loan.

Movants state there were two loan transactions with non-debtor AFM. Both AFM loans were signed by guarantors, and Supplemental Loan Agreements provide that the AFM Loan and Continuing Guaranties are secured by the PCA Deed of Trust (the court assumes this is the same Deed of Trust as above). Additionally, the Supplemental Loan Agreements states the collateral described in the PCA Deed of Trust also secures obligations to various loans, of which the court does not know the nature of the loans. The AFM Loan matured on April 1, 2023. Motion, Dckt. 39 at 8-10.

4. Guarantors have failed to pay obligations due to Movant PCA, secured by the PCA Deed of Trust and applicable security agreements.

As mentioned above, Movant contends there are numerous non-debtor guarantors on both loans.

5. Movant PCA has lack of adequate insurance on their collateral.

Movant contends they are entitled to a 10.75% interest rate on their fully matured loan. Motion, Dckt. 39 at 8.

6. The family dispute has jeopardized and prejudiced the interests of Movants.

Movants are informed there is a dispute between Mr. George Arata, Sr., the President of Debtor, and his son. Motion, Dckt. 39 at 13. The disputes concern equipment owned by Debtor. *Id.* Movants were informed that Mr. Arata's son has took control and retained equipment over the objection of Debtor. *Id.* Therefore, Mr. Arata's son may be in possession of equipment that is Movants' collateral. *Id.*

7. Debtor does not have any current income or business operations.

8. Non-debtors have defaulted on the Movant FLCA loan.

Movants state Movant FLCA has a senior in priority Deed of Trust. The loan transactions of FLCA are to various non-debtor parties. The FLCA Deed of Trust secures the non-debtor loan and encumbers the real and personal property in Brentwood, California. The non-debtors signed a "Notice of Advance Under Deed of Trust." As of May 2, 2023, there remains an unpaid indebtedness due to FLCA.

9. Movants have not properly been joined in the partition action.

There is an ongoing partition action regarding the Arata family. Motion, Dckt. 39 at ¶ 9. Movants state neither were named as defendants in the Partition Action. Movants state if they are not named

as defendants, they must intervene because the action seeks to partition real and personal property subject to the PCA Deed of Trust and FLCA Deed of Trust.

10. Both Movants need relief from the stay given the structure of the Movant PCA loans, and cross collateralization. Motion, Dckt. 39 at 14 ¶ 16.
11. Movants request waiver of the 14-day stay period provided in the Federal Rules of Bankruptcy Procedure. Motion, Dckt. 39 at 17.

DEBTOR/DEBTOR IN POSSESSION'S OPPOSITION

Debtor/Debtor in Possession filed an Opposition on June 5, 2023. Dckt. 53. Debtor/Debtor in Possession opposes Movants' Motion on the grounds:

1. Adequately Protected - The debt owed to Movant PCA is secured by farm equipment with equity at least twice as much as the debt. Additionally, the real property that secures the debt has over \$3,000,000 in equity to support the debt. Debtor is not opposed to making interest payments in the interim.
2. Proper Purpose - The Chapter 11 case was filed for a proper purpose, and was prompted by a lawsuit filed by a fuel supplier. Any underlying family disputes have mostly been resolved. The Plan will provide payment in full of all claims.
3. Assets Are Necessary for an Effective Reorganization - The liquidation of all assets will be the thrust of a Chapter 11 Plan.
4. No basis for waiver of Rule 4001(a)(3) - No basis for the waiver was pleaded in the Motion.

MOVANTS' REPLY BRIEF

Movants filed a reply brief on June 8, 2023. Dckt. 57. Movants state:

1. The family dispute has not yet been resolved. Mr. Arata's son is attempting to transfer (unidentified) property of Debtor (which is property of the bankruptcy estate to third-parties. This would appear to be a sanctionable violation of the automatic stay – which the Debtor/Debtor in Possession and its management, as fiduciaries, have a fiduciary obligation to immediately prosecute to cease such violation.
2. The proposed sale of the equipment is illusory. No proposed adversary proceeding for turnover to recover equipment seized by Mr. Arata's son has been filed.
3. Debtor's PCA loan is fully due and payable, as well as the PCA loan to AFM.

4. The PCA and FLCA loans are secured by the non-debtor real property, subject to the Partition Action.
5. The guarantors are obtaining the benefit of the filing.
6. Debtor has no income nor evidence of insurance.
7. The proposed sale of the equipment to pay creditors reflects a transaction between insiders.
8. Waiver of the 14-day stay is proper because Movants have been delayed long enough.

DISCUSSION

The court has been presented with a seemingly complex situation. The complexity involves not only the facts surrounding the underlying case, but also the way in which Movants have crafted their Motion and supporting documents and presented it to the court.

Movants Motion provides 17-pages worth of complicated history between Movants, the Debtor, and non-debtor parties, and their assets and liabilities. The court has already taken considerable time and resources to review various documents Movants have provided. Even so, the court is still puzzled with the history of the various interests and assets of Debtor, Movants, and non-debtor parties.

The court is inclined to request supplemental briefing on the matter, to allow Movants to clearly and concisely state the relief requested and grounds for relief. Absent supplemental briefing, the court is tasked with flipping through the hundred of documents just to piece together the relationship between the various parties, interests, and assets.

Clarification at the Hearing

At the hearing, the court determined that entering an order granting relief for Movants to proceed against non-debtor obligors and property that is not property of the bankruptcy estate was proper. Though it can be argued that the automatic stay does not apply to such non-debtor parties and property that is not property of the Bankruptcy Estate, entry of the order to make it clear to third-parties and the non-bankruptcy courts is warranted.

In the discussion with the Parties, it was agreed that the order identifying the parties and property as not being the debtor or property of the Bankruptcy Estate was sufficient.

Counsel for Movant shall prepare and lodge with the court a proposed order consistent with the above ruling.

The court will enter a separate order granting the forgoing relief.

The court continues the hearing as to the remaining issue and parties - whether relief should be granted with respect to property of the Bankruptcy Estate.

Status Conference Statement

Movants filed a Status Conference Statement requesting the Motion be continued to September 7, 2023 at 10:00 a.m., as the Confirmation Hearing is currently set for September 7, 2023 at 2:00 p.m.

The court continues the hearing on the Motion for Relief to September 7, 2023 at 2:00 p.m. to be heard in conjunction with the Confirmation Hearing.

September 7, 2023 Hearing

At the hearing, **XXXXXXXXXXXX**

The court shall issue an order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion for Relief From the Stay filed by American AgCredit, FLCA (“FLCA”) and American AgCredit, PCA (“PCA”), collectively, “Movants,” having been presented to the court, the court determining that bifurcation of granting of relief was proper and by separate order as provided in Federal Rule of Civil Procedure 54(b) and Federal Rules of Bankruptcy Procedure 7054, 9014 granting relief for Movants to enforce their rights against non-debtor obligors and non-bankruptcy estate property, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion for Relief is **XXXXXXXXXXXXXXXX**

Final Ruling: No appearance at the September 7 2023 Hearing is required.

Local Rule 9014-1(f)(1) Motion—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor in Possession, Debtor's Attorney, Chapter 11 Trustee, creditors, parties requesting special notice, and Office of the United States Trustee on July 7, 2023. By the court's calculation, 62 days' notice was provided. 42 days' notice is required.

The Confirmation of Plan of Reorganization has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1) and Federal Rule of Bankruptcy Procedure 2002(b). Failure of the respondent and other parties in interest to file written opposition at least fourteen days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (upholding a court ruling based upon a local rule construing a party's failure to file opposition as consent to grant a motion). Opposition having been filed, the court will address the merits of the motion at the hearing. If it appears at the hearing that disputed material factual issues remain to be resolved, a later evidentiary hearing will be set. LOCAL BANKR. R. 9014-1(g).

The Confirmation of Plan of Reorganization is denied.

The Debtor in Possession Plan Proponent has complied with the Service and Filing Requirements for Confirmation:

June 26, 2023 Plan filed

June 30, 2023 Confirmation Hearing Set for September 7, 2023

July 27, 2023 Last Day to File Objections to Confirmation

August 31, 2023 Last Day to File Replies to Objections, Tabulation of Ballots, Proof of Service

NO DOCKET CONTROL NUMBER

Movant is reminded that the Local Bankruptcy Rules require the use of a new Docket Control Number with each motion. LOCAL BANKR. R. 9014-1(c). Here, the moving party failed to use a Docket Control Number. That is not correct. The court will consider the motion, but counsel is reminded that not complying with the Local Bankruptcy Rules is cause, in and of itself, to deny the motion. LOCAL BANKR. R. 1001-1(g), 9014-1(c)(l).

Table of Classes

Creditor/Class	Treatment	
Class 1: Priority Claims	Claim Amount	Unknown
	Impairment	Unimpaired
	Each priority claim will be paid in full, on the effective date. Debtor is not aware of any priority claims.	
Class 2: Kubota Credit Corporation (Secured)	Claim Amount	\$5,051.52
	Impairment	Impaired
	Debtor will sell the farm equipment collateral and pay the claimholder \$5,051 plus interest at 8.25%.	
Class 3: CNH Industrial Capital America LLC (Secured)	Claim Amount	\$32,302.57
	Impairment	Impaired
	Debtor will sell the farm equipment collateral and pay the claimholder \$32,303 plus interest at 8.25%.	
Class 4: Farm Credit Leasing Services Corp. (Secured)	Claim Amount	\$131,433.66
	Impairment	Impaired
	Debtor will sell the farm equipment collateral and pay the claimholder \$131,434 plus interest at 8.25%.	
Class 5: American AgCredit Production Credit Association (Secured)	Claim Amount	\$272,136.41
	Impairment	Impaired
	Debtor will pay claimholder all surplus proceeds from sale of farm equipment after paying purchase money security interest. Will also be paid any recovery of the claims against George S. Arata, Jr. Will be paid with interest at 8.25%, no later than December 31, 2023.	
Class 6: Non-priority unsecured claims held by non-insiders	Claim Amount	Unknown
	Impairment	Impaired
	Claimholders will receive payments after all remaining proceeds of other claims are paid, no less than 30%, no later than June 30, 2024.	

Class 7: Non-priority unsecured claims	Claim Amount	Unknown
	Impairment	Impaired
	Claimholders will not receive a distribution.	
Class 8: Creditor Equity Interests in the Debtor	Claim Amount	Unknown
	Impairment	Unimpaired
	Shareholders will retain their shares in Debtor.	

No declaration has been filed in support of the Motion to provide evidence of compliance with the necessary elements for confirmation in 11 U.S.C. § 1129. As of September 1, 2023, Debtor has not filed a reply to the objections, or provided the court with a tabulation of ballots.

CREDITOR FARM CREDIT LEASING SERVICES CORPORATION'S OBJECTION

On August 7, 2023, Creditor Farm Credit Leasing Services Corporation ("Creditor Farm Credit") filed an Opposition to Confirmation. Dckt. 87. Creditor Farm Credit opposes confirmation on the following grounds:

1. The Plan fails to assume or reject the lease of the equipment.
2. The Plan misclassifies Creditor Farm Credit as a secured claim. Although there is a lease renewal and purchase option in the Lease, Debtor has not and can not exercise these options due to Debtor's default.

AMERICAN AGCREDIT, PCA'S OBJECTION

Creditor American AgCredit filed an Objection on August 23, 2023. Dckt. 94. Creditor American AgCredit objects on the following grounds:

1. The Plan does not contain a brief history of the business operations, as required by 11 U.S.C. § 1190(1)(A).
2. The Plan does not contain a proper liquidation analysis as required by 11 U.S.C. § 1190(1)(B) because Debtor misstates its assets and creditors interests in the assets.
3. The Plan does not contain any projections as to the ability of Debtor to make payments, as required by 11 U.S.C. § 1190(1)(C).
4. The Plan fails to provide creditors remedies upon the event of default, as required by 11 U.S.C. § 1191(c)(3)(B).

5. Debtor is not presently engaged in commercial or business activities, and thus, is not eligible to file under Subchapter V. Thus, Debtor is not in compliance with 11 U.S.C. § 1129(a)(2).
6. The Plan has not been filed in good faith under 11 U.S.C. § 1129(a)(3).
7. Mr. Arata, Sr. Does not appear qualified to continue to serve as a proper fiduciary under 11 U.S.C. § 1129(a)(5).
8. Creditors are better served in a Chapter 7 liquidation.
9. Debtor has failed to show that the Plan is feasible under 11 U.S.C. § 1129(a)(11).
10. Debtor will be unable to obtain financing to support the Plan.
11. Debtor cannot make payments under the effective date because Debtor has no current assets, operations, or income.
12. The Plan discriminates against creditors and favors insiders.
13. Creditors interests are not adequately protected.

TRUSTEE'S STATUS REPORT

The Subchapter V Trustee, Walter R. Dahl, filed a Statement on August 24, 2023. Dckt. 103. Trustee raises numerous concerns, including:

1. Debtor has no gross revenue for 2022, nor the period of January 1 to March 28, 2023. Dckt. 27.
2. Debtor has not prepared or filed its corporate tax income returns for 2021 or 2022.
3. Debtor suspended operations in Summer of 2022.
4. Debtor has failed to file any Monthly Operating Reports.
5. Debtor mistreats Creditor Farm Credit.
6. Creditor American AgCredit's objections are well-founded and supported.
7. Debtor has not filed their Federal and California income tax returns for 2021.
8. Trustee believes Debtor currently has no viable business operations nor intention to resume operations. The Plan is an outline for liquidation.

9. Trustee believes the Plan should not be confirmed.
10. Trustee would be unwilling to serve as the Trustee in a non-consensual Plan based on the circumstances of this Plan.

DISCUSSION

Federal Rule of Bankruptcy Procedure 3020(b)(2) states:

The court shall rule on confirmation of the plan after notice and hearing as provided in Rule 2002. If no objection is timely filed, the court may determine that the plan has been proposed in good faith and not by any means forbidden by law without receiving evidence on such issues.

Here, the court has not been provided enough evidence from the Debtor to determine the Plan has been proposed in good faith and not by any means forbidden by law. Additionally, the court has not been provided enough evidence from Debtor to determine the proposed Plan is feasible.

The court has been provided, by creditors and Trustee, numerous grounds to determine that the Plan is not feasible and that the Plan does not does not comply with 11 U.S.C. § 1129(a).

The Plan does not comply with 11 U.S.C. §§ 1129 and 1191, and is not confirmed.

The court shall issue an order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Proposed Subchapter V Plan filed by the debtor, G Arata & Son Inc. (“Debtor”), having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Plan filed on June 26, 2023 is denied, and the proposed Subchapter V Plan is not confirmed.

Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

Local Rule 9014-1(f)(1) Motion—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, Plan Administrator, SBN V Ag I LLC, and Office of the United States Trustee on December 9, 2021. By the court's calculation, 35 days' notice was provided. 28 days' notice is required.

The Motion for Entry of Order in Aid of Execution of the Plan has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). Failure of the respondent and other parties in interest to file written opposition at least fourteen days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (upholding a court ruling based upon a local rule construing a party's failure to file opposition as consent to grant a motion). The defaults of the non-responding parties and other parties in interest are entered.

The Motion for Entry of Order in Aid of Execution of Plan is XXXXXXXXXX

REVIEW OF MOTION

On October 20, 2022, Focus Management Group, USA, the Plan Administrator in the Arambel Case, filed an updated Status Report. Dckt. 548. The Plan Administrator reports that while the parties have negotiated possible resolution terms, no settlement has been finalized. The reasons for being unable to finalize a settlement are stated to include:

- (1) the IRS inadvertently sent tax refund checks for the Arambel Plan Estate to Mr. Arambel, but Mr. Arambel has turned over those monies of the Arambel Plan Estate to the Plan Administrator;
- (2) Summit has been focused on a sale of the Business Park property that was abandoned to the Debtor in May 2021, but that sale failed in September 2022; and
- (3) Summit and Mr. Arambel are continue in their negotiations which may obviate the need for a sale of the Business Park.

The Plan Administrator requests a further continuance.

At the hearing, the Parties requested that the court to continue the hearing to 2:00 p.m. on January 26, 2023.

Much of the grounds for the continuance are stated to be based on all the work being done by Summit in working with the Jeffery Arambel to achieve a global forbearance agreement to avoid (at least for now) foreclosures by Summit.

JANUARY 26, 2023 HEARING

The court's review of the Docket in this Case on January 25, 2023, disclosed that no updated information about this Motion has been filed.

The Plan Administrator requested a continuance to allow the parties to wrap up their settlement discussions.

APRIL 20, 2023 HEARING

At the hearing, counsel for the Arambel Plan Administrator reported that no agreement has yet been reached between Summit, Mr. Arambel, and the Arambel Plan Administrator.

Counsel for Summit advised the court and Parties in Interest that Summit and Mr. Arambel have been active in their negotiations. Some complicating issues have arisen. One, is that Mr. Arambel has consented to the foreclosure on the Business Park Property, but now there is a dispute as to what constitutes the Business Park. Because this has not been resolved, an agreement cannot be made with the Arambel Plan Administrator.

Counsel for Mr. Arambel stated that nothing further to add, and they supported a continuance.

Counsel for the Arambel Plan Administrator stated that through the settlement they are trying to salvage something for the creditors with unsecured creditors. In the Filbin case, the only remaining creditor is Summit.

At the hearing, the court stated that this Motion has been pending since December 2021, when it was filed. It has been continued for more than a year, with representations that the Parties are working to resolve this matter. Though representations of active settlement discussions have been presented, those settlement discussions have failed to bear fruit.

The court notes that this situation appears to be one akin to the pre-bankruptcy dysfunction that came to light in the Arambel and Filbin Land & Cattle cases. Additionally, the dysfunction that existed in those cases when they were being prosecuted by the then debtors in possession and post-confirmation.

At this juncture, based on the failed efforts to resolve this matter over the last sixteen (16) months, the court has little confidence in the Parties to be able to resolve it consensually.

Therefore, the court sets a Scheduling Conference for a Final Hearing on this Motion Motion for Entry of Order in Aid of Execution of Plan. In their Scheduling Conference Reports the parties will

provide information necessary in scheduling the Final Hearing including: (1) whether due to the passage of time any further discovery is required and specifically what that is, and (2) whether the Parties will proceed with the hearing using declarations and documentary evidence, or whether an evidentiary hearing is requested.

JUNE 8, 2023 HEARING

At the hearing, the parties requested the court set a deadline for electronically filed or lodging with the court, by filing in this case, and serving their Alternative Direct Testimony Statements (which may be refiled copies of prior declarations) exhibits, and a final supplemental Evidentiary Hearing Brief on or before July 6, 2023. The Evidentiary hearing shall be conducted at 1:30 p.m. on July 20, 2023. The hearing will be conducted via a Hybrid Zoom proceeding.

JULY 20, 2023 EVIDENTIARY HEARING

At the hearing, the Parties addressed their efforts to settle the dispute. The Parties requested a further continuance.

SEPTEMBER 7, 2023 HEARING

At the hearing, **XXXXXXXXXXXX**

The court shall issue an order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion for Entry of Order in Aid of Execution of Plan filed by Focus Management Group, USA, Inc., the Arambel Chapter 11 Plan Administrator having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion for Entry of Order in Aid of Execution of Plan is **XXXXXXXXXXXX**

4. [22-90415-E-7](#)
[23-9011](#)

JOHN MENDOZA
CAE-1

STATUS CONFERENCE RE:
COMPLAINT
6-16-23 [1]

WVJP 2021-4, LP V. MENDOZA

Plaintiff's Atty: Brian C. Aton
Defendant's Atty: Peter G. Macaluso

Adv. Filed: 6/16/23
Answer: 7/9/23

Nature of Action:
Dischargeability - false pretenses, false representation, actual fraud
Dischargeability - willful and malicious injury

Notes:

SUMMARY OF COMPLAINT

The Complaint filed by WVJP 2021-4, LP ("Plaintiff"), Dckt. 1, asserts claims for the nondischargeability of debt. Plaintiff is an assignee of a judgment awarded against the Defendant-Debtor. The Complaint includes detailed allegations of multiple transfers of properties, the creation of entities (asserted to be shell entities) which were owned or controlled by Defendant-Debtor for such transfers, and other acts of Debtor.

The First Claim for Relief is one for nondischargeability of debt based on fraud (fraudulent conveyances) pursuant to 11 U.S.C. § 523(a)(2)(A). It is asserted that Defendant-Debtor injured Plaintiff by engaging in fraudulent schemes and committing actual fraud. The fraud consists of alleged fraudulent conveyances by which Defendant-Debtor moved properties through various (shell) entities.

The Second Claim for Relief is for the nondischargeability of Plaintiff's debt by the various alleged fraudulent conveyances. Having made such alleged fraudulent conveyances, Plaintiff asserts that "injury" was cause Plaintiff.

11 U.S.C. § 523(a)(6) provides that a debt will be nondischargeable "(6) for willful and malicious injury by debtor to another entity;"

Plaintiff seeks judgement for amounts proven at trial, punitive damages, costs and expenses, and that such judgment is nondischargeable.

SUMMARY OF ANSWER

John Pierre Mendoza (“Defendant-Debtor”) has filed an Answer, Dckt. 8, which first states a general denial of each and every allegation in the Complaint. No exceptions to the general denial are stated.

Defendant-Debtor admits the allegations of federal court jurisdiction, venue, and that this is a Core Matter proceeding.

Defendant-Debtor also denied and admits specific allegations as stated in paragraph 3, 4, and 5 of the Answer. Defendant-Debtor also expressly reserves stating affirmative defenses in the future as discovery proceeds.

FINAL BANKRUPTCY COURT JUDGMENT

Plaintiff WVJP 2021-4, LP alleges in the Complaint that jurisdiction for this Adversary Proceeding exists pursuant to 28 U.S.C. §§ 1334 and 157, and that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Complaint ¶ 5, Dckt. 1. In the Answer, Defendant-Debtor John Pierre Mendoza admits the allegations of jurisdiction and that this is a core proceeding. Answer ¶¶ 2, 4; Dckt. 8. **To the extent that any issues in the existing Complaint as of the Status Conference at which the Pre-Trial Conference Order was issued in this Adversary Proceeding are “related to” matters, the parties consented on the record to this bankruptcy court entering the final orders and judgement in this Adversary Proceeding as provided in 28 U.S.C. § 157(c)(2) for all issues and claims in this Adversary Proceeding referred to the bankruptcy court.**

INITIAL STATUS CONFERENCE

September 7, 2023

Defendant-Debtor filed his Status Conference Statement on August 30, 2023. Dckt. 12. Defendant-Debtor states that the respective counsel have not met and conferred to discuss the prosecution of this Adversary Proceeding. Defendant-Debtor requests that the court set discovery and other deadlines, and the pretrial conference.

Plaintiff filed its Status Conference Statement on September 1, 2023. Dckt. 14. Plaintiff states that the Chapter 7 Trustee is conducting investigation of possible assets and causes of action of the Bankruptcy Estate to recover assets (which may include millions of dollars of real property). Plaintiff states that it is the creditor holding the largest claim in this case and that there are only two creditors.

Plaintiff requests that the court stay these proceedings pending the Trustee’s investigation and actions, if any, undertaken by the Trustee to recover assets which can fund distributions to creditors.

If the court does not stay this Adversary Proceeding, Plaintiff suggests the following deadlines in this Adversary Proceeding:

Last Day for Initial Disclosures: September 18, 2023

Close of Discovery: January 31, 2024

Last Day to File Dispositive Motions: February 15, 2024

Review of Schedules

September 7, 2023 at 2:00 p.m.

- Page 16 of 28 -

No proofs of claim have been filed in Defendant-Debtor's Bankruptcy Case. 22-90415. With respect to creditors, Defendant-Debtor states under penalty of perjury,

A. Schedule D - Creditors with Claims

1. Bank of America

- a. Secured Claim.....(\$99,527)
- b. Collateral.....1035 W. 18th St. Rental House

2. Bank of America

- a. Secured Claim.....(\$727,914)
- b. Collateral.....Twain Harte Property

3. Select Portfolio Servicing

- a. Secured Claim.....(\$105,026)
- b. Collateral.....1027 W. 18th St. Rental House

4. WVJP 2021-4, LP

- a. Secured Claim.....(\$2,150,000)
- b. Collateral.....Twaine Harte, 1027 & 1035 Rentals, and 115 East Green St. States that (\$515,000) of the claim unsecured.

B. Schedule E/F - Unsecured Claims

- a. Priority Unsecured Claims.....None

- b. General Unsecured Claims

(1) Bank of the Orient

- (a) Unsecured Claim.....(\$1,011,564).

Dckt. 1.

At the Status Conference, **XXXXXXX**

ISSUANCE OF PRE-TRIAL SCHEDULING ORDER

The court shall issue a Pre-Trial Scheduling Order setting the following dates and deadlines:

- a. Plaintiff WVJP 2021-4, LP alleges in the Complaint that jurisdiction for this Adversary Proceeding exists pursuant to 28 U.S.C. §§ 1334 and 157, and that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Complaint ¶ 5, Dckt. 1. In the

Answer, Defendant-Debtor John Pierre Mendoza admits the allegations of jurisdiction and that this is a core proceeding. Answer ¶¶ 2, 4; Dckt. 8. **To the extent that any issues in the existing Complaint as of the Status Conference at which the Pre-Trial Conference Order was issued in this Adversary Proceeding are “related to” matters, the parties consented on the record to this bankruptcy court entering the final orders and judgement in this Adversary Proceeding as provided in 28 U.S.C. § 157(c)(2) for all issues and claims in this Adversary Proceeding referred to the bankruptcy court.**

- b. Initial Disclosures shall be made on or before **xxxxxxx, 2023**.
- c. Expert Witnesses shall be disclosed on or before **xxxxxxx, 2023**, and Rebuttal Expert Witnesses, if any, shall be disclosed on or before **xxxxxxx, 2023**.
- d. Discovery closes, including the hearing of all discovery motions, on **xxxxxxx, 2024**.
- e. Dispositive Motions shall be heard before **xxxxxxx, 2024**.
- f. The Pre-Trial Conference in this Adversary Proceeding shall be conducted at **2:00 p.m. on xxxxxxx, 2024**.

Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court’s resolution of the matter.

Local Rule 9014-1(f)(1) Motion—Hearing Continued.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, creditors holding the twenty largest unsecured claims, creditors, parties requesting special notice, and Office of the United States Trustee on April 8, 2021. By the court’s calculation, 35 days’ notice was provided. 28 days’ notice is required.

The Motion to Abandon has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). Failure of the respondent and other parties in interest to file written opposition at least fourteen days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (upholding a court ruling based upon a local rule construing a party’s failure to file opposition as consent to grant a motion). The defaults of the non-responding parties and other parties in interest are entered.

The Motion to Abandon is ~~XXXXXXXXXX~~

REVIEW OF MOTION

The Motion filed by Focus Management Group USA, Inc. (“the Plan Administrator”) requests that the court authorize the Plan Administrator to abandon the following properties commonly known as:

1. the Arambel Business Park,
2. the Begun Ranch,
3. the Lismer Ranch,
4. the Carlilie Ranch,
5. the Judy Gail Ranch,
6. the Rogers Road property, and
7. the Gravel Pit property
8. the Murphy Ranch 756,
9. the Murphy 240 Rangeland,

(the “Properties”).

The Declaration of Juanita Schwarzkopf has been filed in support of the Motion. Dckt. 1412. Ms. Schwarzkopf provides testimony that while the Properties have substantial market value, they are of inconsequential value as there is no realizable equity because the debt secured by the Properties exceeds the value of the real properties. *Id.*, ¶ 24. Moreover, according to the Plan Administrator, the properties are burdensome because the Estate does not have the funds to continue paying the costs of carrying the Properties including insurance, real property taxes, and other charges or the costs of administration of such properties. *Id.*, ¶36.

Ms. Schwarzkopf testifies that the Properties have been actively marketed by the Reorganizing Debtor and by the Plan Administrator for over 16 months during the Negotiated Period (Plan provision during which Debtor was to perform certain duties regarding plan assets) and for years prior to the Plan confirmation but that unfortunately they were not sold. *Id.*, ¶18. The Plan Administrator being unable to obtain offers in an amount that was sufficient to pay the secured claims on and tax liabilities related to the Properties. *Id.* Additionally, the Plan Administrator explains that SBN V Ag I LLC (“Summit”) as one of the primary sources of funds for the post-confirmation administration of the Estate has indicated they will no longer consent to further use of their cash collateral for pursuing short sales of its collateral. *Id.*, ¶ 37. Ms. Schwarzkopf also testifies that Summit has informed the Plan Administrator that it intends to proceed promptly with non-judicial foreclosure of the Properties. *Id.*, ¶35.

Creditor’s Opposition

Creditor with secured claim, American AgCredit does not object in its entirety to the abandonment of the Properties, instead Creditor American AgCredit objects specifically as to the timing of the abandonment of the Murphy Ranch Property. Dckt. 14216. American AgCredit explains that for the last five months they have been engaged in the Lot Line Adjustment (“Adjustment”) process with the County of Stanislaus related to the Murphy Ranch 756 and the Murphy 240 Rangeland. Thus, American AgCredit requests that the abandonment not occur until the County of Stanislaus approves the adjustment, the adjustment is fully recorded and the appropriate quitclaim deeds by and between the Plan Administrator and American AgCredit are approved by the parties’ title companies and successfully recorded..

Plan Administrator’s Reply

The Plan Administrator filed a Reply indicating they are amenable to deferring the effective date of the abandonment of the Murphy Ranches for a reasonable time during which the Adjustment may be and should be completed; but asks the court for the authority to effectuate the abandonment of the Murphy Ranches at such future time as the Plan Administrator determines in its business judgment that the abandonment should be effective, even if the Adjustment has not been fully completed. Dckt. 1434..

The Plan Administrator believes this a reasonable request on the basis that the Plan Administrator seeks to avoid capital gains taxes in the event that Summit proceeds with foreclosure remedies; the Plan Administrator will continue to work diligently with Creditor to get the Adjustment resolved; and even after abandonment, the Adjustment process may still continue after the abandonment where Debtor has pledged to continue working with Creditor to complete the Adjustment process.

SBN V Ag I LLC (“Summit”) Response

Summit filed a Response in support of the Motion on May 7, 2021 stating that they support the abandonment of the Properties and the Plan Administrator’s proposal of temporary deferral of the Murphy

Properties to a later date to as to allow for the Adjustment process but they continue to reserve their right to commence non-judicial foreclosure proceedings and request that any order approving the abandonment make it clear that any delay in abandonment is without prejudice to Summit's rights to provide notice of relief from stay and commence its foreclosure rights and remedies. Dckt. 1438.

DISCUSSION

After notice and hearing, the court may order a trustee to abandon property of the Estate that is burdensome to the Estate or of inconsequential value and benefit to the Estate. 11 U.S.C. § 554(a). Property in which the Estate has no equity is of inconsequential value and benefit. *Cf. Vu v. Kendall (In re Vu)*, 245 B.R. 644 (B.A.P. 9th Cir. 2000).

The court finds that the Property secures claims that exceed the value of the Property, and there are negative financial consequences for the Estate if it retains the Property. The court determines that the Property is of inconsequential value and benefit to the Estate and authorizes the Plan Administrator to immediately abandon the following properties:

1. the Arambel Business Park,
2. the Begun Ranch,
3. the Lismer Ranch,
4. the Carlilie Ranch,
5. the Judy Gail Ranch,
6. the Rogers Road property, and
7. the Gravel Pit property

Bifurcated Abandonment of the Murphy Ranch Properties

With respect to the Murphy Ranch 756 and the Murphy 240 Rangeland, completion of the lot line adjustment to correct for the Debtor having recorded Certificates of Compliance, without Creditor's consent that negatively impact its collateral, which Creditor has now foreclosed on.

Rather than having a vague "the Plan Administrator can abandon at some point in the future, and then potentially having emergency motions to modify that authorization," the court bifurcates the orders on the relief requested and issues a final order for abandonment of seven properties above, and continues the hearing on the request to abandon the Murphy Ranch 756 and the Murphy 240 Rangeland properties to 10:30 a.m. on August 12, 2021.

In addition to helping the parties avoid "abandonment anxiety," the properties being in the Plan Estate, this federal court has jurisdiction to address the issue of the adjustments by Debtor to the property that is currently in the Plan Estate through an adversary proceeding that Creditor may believe necessary with third-parties (not the Plan Administrator) to correctly identify the property foreclosed on through these bankruptcy proceedings.

August 12, 2021 Hearing

The Plan Administrator filed an updated Status Report on August 10, 2021, Dckt. 1498, concerning this Motion. The Plan Administrator advises the court that additional time is needed and a continuance of this hearing is requested to late September 2021. A non-judicial foreclosure sale of the Murphy Ranches could be conducted in mid-October 2021, and the Plan Administrator wants to insure that the abandonment occurs before that time.

September 30, 2021 Hearing

No further documents have been filed in this Contested Matter as of the court's September 28, 2021 review of the Docket. At the hearing, counsel for the Plan Administrator reported that the lot line adjustments have not yet been completed, and the Parties agreed to a further continuance of this hearing.

October 21, 2021 Hearing

At the hearing, the Parties requested a continuance to allow for all of the preliminary steps to be taken so that the abandonment may occur.

November 16, 2021 Status Report

The Plan Administrator filed an updated Status Report on November 16, 2021, reporting that the abandonment cannot be completed at this time and a further continuance was necessary. Dckt. 1585.

December 16, 2021 Hearing

Attorneys for the Plan Administrator filed a Status Report requesting a further continuance as further negotiations were conducted.

March 10, 2022 Hearing

At the hearing counsel for the Plan Administrator reported that all documents have been received for the lot line adjustment and it may now be completed. There still remain some quit claim deeds required, but the parties are waiting on information from the County as to what, if any, quit claims will be required.

April 18, 2022 Status Report

On April 18, 2022, the Plan Administrator filed a status report requesting the Abandonment Motion be further continued to May 26, 2022. Dckt. 1672. The Plan Administrator states there are final steps needed to complete the lot line adjustment while preserving the potential abandonment prior to the foreclosure sale.

CONTINUANCE OF MAY 26, 2022 HEARING

The Plan Administrator filed a Status Report requesting that the hearing be continued to June 30, 2022. Dckt. 1692. The proposed lot line adjustment is to be presented to the Board of Supervisors on May 24, 2022, and the parties continue in their significant good faith efforts to conclude this matter.

The court continues the hearing, first as requested by the Plan Administrator and American AgCredit (Status Report, Dckt. 1690); and second, the judge to whom this case is assigned not being available (due to disrupted travel plans by Midwestern storms) to conduct a hearing on May 26, 2022.

CONTINUANCE OF JUNE 30, 2022 HEARING

Focus Management Group, the Plan Administrator, and American AgCredit have filed Updated Status Reports (Dckts. 1707, 1709) information the court that the parties are now working of the deeds for the lot line adjustments that have been approved, and a further continuance is requested.

The Hearing is continued to 10:30 a.m. on August 4, 2022.

July 29, 2022 Status Report

On July 29, 2022, American AgCredit filed a Status Report stating documents for the lot-line are currently being circulated and signed for recording but the process has not concluded. Dckt. 1723. American requests the matter be continued for 30-45 days for the process to continue.

August 4, 2022 Hearing

As of the court's review of the Docket, the Plan Administrator had not filed a concurrence in the request for a continuance, so the court posted this as a tentative ruling. Though the court could assume that the Plan Administrator concurs, there may be some administrative "tweaks" that the Parties want to address at the hearing.

At the hearing, the Parties agreed that this should be further continued in light of the advances being made on getting the issues resolved with the County.

September 8, 2022 Hearing

At the hearing, counsel for the Plan Administrator reported that the lot line adjustments were recorded on Tuesday, but recorded copies have not been received.

The other Parties appearing agreed to a continuance to confirm that everything has been correctly wrapped up.

OCTOBER 17, 2022 HEARING

On October 21, 2022, the Plan Administrator filed an updated Status Report. Dckt. 1764. The Plan Administrator reports that it has been informed that there continue to be problems with the title company, and additional time has been requested. Additionally, that the Plan Administrator has received an offer for the Murphy Ranches which is under review.

The Plan Administrator requests that the hearing be continued to 10:30 a.m. on December 15, 2022, as to the Murphy Ranches.

On October 21, 2022, American AgCredit filed its updated Status Report. Dckt. 1770. It reports that the work on addressing the title issues continue, and a continuance of 60 days is requested.

September 7, 2023 at 2:00 p.m.

The Murphy Ranches being the remaining properties at issue, the court continues the hearing to 10:30 a.m. on December 15, 2022.

DECEMBER 15, 2022 HEARING

On December 13, 2022, Focus Management Group USA, Inc., the Chapter 11 Plan Administrator filed in updated Status Report. Dckt. 1805. The Plan Administrator reports that American AgCredit has confirmed that the issues relating to the Lot Line Adjustment have resolved and the adjustment has been completed.

The Plan Administrator reports that with that completed, the Parties can proceed with a global settlement. The Plan Administrator requests that the hearing on this Motion be continued to the court's January 26, 2023 Calendar so that the Plan Administrator and the other parties can continue with the global negotiations.

At the hearing, counsel for the Plan Administrator reported that the global settlement negotiations were proceeding and the Parties agreed to continue this hearing.

JANUARY 26, 2023 HEARING

As of the court's January 25, 2023 review of the Docket, no updated status report had been filed or information about whether the Plan Administrator would or could proceed with the abandonment.

At the January 26, 2023 hearing, counsel for the Plan Administrator reported that the timing of events have been driven by dealings with Arambel.

The Murphy Ranch property in this case is part of the global settlement in the various related cases.

The Plan Administrator requested a continuance to allow the parties to wrap up their settlement discussions.

APRIL 20, 2023 HEARING

At the hearing counsel for the Plan Administrator requested that the hearing be continued to be conducted in conjunction with the Final Hearing Scheduling Conference for the Plan Administrator's Motion to Abandon in the Filbin Land & Cattle Bankruptcy Case.

JUNE 8, 2023 HEARING

At the hearing, the Plan Administrator requested that this matter be continued to be conducted in conjunction with the hearing in the Filbin Land and Cattle Case for a supplemental Order in Aid of Enforcement of the Confirmed Plan in that case.

JULY 20, 2023 HEARING

At the hearing, the Parties addressed their efforts to settle the dispute. The Parties requested a further continuance.

SEPTEMBER 7, 2023 HEARING

At the hearing, **XXXXXXXXXXXX**

The court shall issue an order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion to Abandon filed by Focus Management Group USA, Inc., the Plan Administrator, having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion to Abandon is **XXXXXXXXXXXX**

FINAL RULINGS

6. [23-90166-E-11](#) CUSTOM SPRAY SYSTEMS, INC.
David Johnston CONFIRMATION OF PLAN
7-17-23 [31]

Final Ruling: No appearance at the September 7, 2023 hearing is required.

Local Rule 9014-1(f)(1) Motion

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor in Possession, Debtor's Attorney, Chapter 11 Trustee, creditors, parties requesting special notice, and Office of the United States Trustee on July 25, 2023. By the court's calculation, 44 days' notice was provided. 42 days' notice is required.

The Confirmation of Plan of Reorganization has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1) and Federal Rule of Bankruptcy Procedure 2002(b). Failure of the respondent and other parties in interest to file written opposition at least fourteen days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (upholding a court ruling based upon a local rule construing a party's failure to file opposition as consent to grant a motion).

The Confirmation of Plan of Reorganization is denied.

The Plan Proponent has complied with the Service and Filing Requirements for Confirmation:

July 17, 2023 Plan filed

August 24, 2023 Last Day to File Objections to Confirmation

August 31, 2023 Last Day to File Replies to Objections, Tabulation of Ballots, Proof of Service

Table of Classes

Creditor/Class	Treatment	
Class 1: Priority Claims	Claim Amount	\$37,625.00
	Impairment	Unimpaired

September 7, 2023 at 2:00 p.m.

- Page 26 of 28 -

Class 2: Non-Priority Unsecured Claims Held by Non-Insiders	Claim Amount	
	Impairment	Impaired
	Class receives all remaining proceeds after all other claims have been paid, but in no event less than 30% of allowed claims.	
Class 3: Non-Priority Unsecured Claims Held by Insiders	Claim Amount	
	Impairment	Impaired
	Class receives nothing.	
Class 4: Equity Interests in the Debtor	Claim Amount	
	Impairment	Unimpaired
	Class, all present shareholders, retain their shares in the Debtor.	

The Debtor failed to file a declaration in support of a proposed plan confirmation, thereby not complying with the necessary elements for confirmation in 11 U.S.C. § 1129.

CREDITOR’S OPPOSITION

Creditor Construction Laborers Trust Funds for southern California Administrative Company, LLC (“CLTF”) filed an Objection to Confirmation of Debtor’s Plan of Reorganization on August 24, 2023. Dckt. 37. CLTF opposes the Debtor’s plan on the following grounds:

1. The Debtor may not unilaterally reject its collective bargaining agreement with CLTF.
2. The Debtor failed to meet its burden in proving the plan is feasible by neglecting to comply with the requirements of §§ §§ 1129, 1191.
3. The Debtor failed to provide any documents or operating reports that validate the Debtor’s claimed assets worth \$198,000.
4. The IRS has not confirmed the Debtor’s purported payment of \$145,000. Accordingly, the IRS in Class 1 would have a priority claim of \$181,978.01, which exceeds the Debtor’s claimed cash on hand.

Dckt. 37.

U.S. TRUSTEE'S OPPOSITION

Tracy Hope Davis, the U.S. Trustee, also filed an Objection to Confirmation of Debtor's Plan of Reorganization on August 21, 2023. The U.S. Trustee opposes the Debtor's plan on the following grounds:

1. The Debtor failed to meet its burden in proving the plan is feasible by neglecting to comply with the requirements of 11 U.S.C. §§ 1129, 1191.
2. The Debtor failed to provide any documents or operating reports that validate the Debtor's claimed assets worth \$198,000.
3. The IRS has not confirmed the Debtor's purported payment of \$145,000. Accordingly, the IRS in Class 1 would have a priority claim of \$181,978.01, which exceeds the Debtor's claimed cash on hand.

Dckt. 35.

DEBTOR'S ABANDONMENT OF PLAN

On August 31, 2023, Debtor filed a "Notice of Abandonment of Plan." Dckt. 42. Debtor states they seek to put forth a consensual plan, and thus, they will be filing a new Plan.

DISCUSSION

Debtor has not put forward a feasible plan. Without a supporting declaration or other appropriate documentation attesting to the veracity of Debtor's proposed plan, the court cannot confirm the details of the plan. 11 U.S.C. §§ 1129, 1191. Additionally, Debtor seeks to prosecute a new Plan. Therefore, the plan is not confirmed, and the Motion is denied.

The Plan does not comply with 11 U.S.C. §§ 1129 and 1191, and is not confirmed.

The court shall issue an order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Proposed Subchapter V Plan filed by the debtor, Custom Spray Systems, Inc.. ("Debtor"), having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Plan filed on July 17, 2023 is denied, and the proposed Subchapter V Plan is not confirmed.